APPEAL NO. 93062

A contested case hearing was held in (city), Texas, on December 18, 1992, (hearing officer) presiding as hearing officer. She determined that the designated doctor's Report of Medical Evaluation, Texas Workers' Compensation Commission Form 69 (TWCC-69) was entitled to presumptive weight and was not contrary to the great weight of other medical evidence and accepted his maximum medical improvement date and his impairment rating. She accordingly awarded benefits under the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN., art 8308-1.01 *et seq* (Vernon Supp. 1993) (1989 Act). Appellant (claimant) disagrees with the impairment rating of the designated doctor and urges that the great weight of medical evidence is in favor of his doctor's report. Respondent (carrier) urges that the other medical evidence is not the great weight of medical evidence warranting the rejection of the designated doctor whose report is accorded presumptive weight under the 1989 Act.

DECISION

Finding no basis to disturb the decision of the hearing officer in accepting the report of the designated doctor and determining that MMI was reached on July 14, 1992 with a 13% impairment rating, we affirm.

The issue in this case was whether the claimant reached MMI and, if so, the correct impairment rating. According to the history in one of the medical reports, the claimant had had two previous surgeries on his back, one in 1987 and another, after reinjuring himself, in 1989. His current injury occurred on (date of injury), when he jumped three or four feet backward off a scaffold and felt a sharp pain. He remained in various treatments and subsequently saw a Dr. D (Dr.D), who claimant states is an orthopedic specialist and who rendered a TWCC-69 indicating an MMI date of "7-14-92" with an impairment rating of 25%. The carrier disputed Dr. D's rating and, according to the claimant, he was seen by two different carrier selected doctors. The first of these doctors determined a 15% impairment rating and the second, Dr. Y, an orthopedic surgeon, assessed a 3% rating for the current impairment when factoring in the 12½% from the previous injury impairment rating. Ultimately, the Commission appointed a designated doctor, Dr. H who, in an initially filed TWCC-69, indicated an MMI date of "7-14-92" and an impairment rating of 11%. In a statement dated October 29, 1992 Dr. H indicated that his rating was not in accord with the correct version of the American Medical Association's Guides to the Evaluation of Permanent Impairment, Third Edition (AMA Guides) and that future evaluations will be based on the correct edition. He subsequently filed an amended TWCC-69 received by the commission on November 6, 1992. The amended TWCC-69 reflected an MMI date of "7-14-92" with an impairment rating of 13% although there was no explanation as to whether the increase from 11% to 13% was related to the different versions or interpretations of the AMA Guides. In any event, the hearing officer stated that a thorough review of the medical evidence (compared to the amended designated doctor's TWCC-69) adduced at the contested case hearing "indicates that it does not constitute the great weight of medical evidence which is necessary to overcome [Dr. H's] opinion." The claimant urged that MMI

had not been reached and that he may require surgery and, further, that the opinion of his doctor, Dr. D, a specialist, outweighs the opinion of the designated doctor who he states is a general practitioner.

We have repeatedly indicated the special and unique position held by a designated doctor under the scheme of the 1989 Act. *See* Texas Workers' Compensation Commission Appeal No. 93039, decided this date, March 1, 1993, and cases cited therein; Texas Workers' Compensation Commission Appeal No. 92555, decided July 27, 1992. We have also indicated that under proper circumstances, a designated doctor can amend his medical evaluation (Texas Workers' Compensation Commission Appeal No. 92491, decided October 8, 1992) and, we determine that such is the case here where he brings his evaluation into compliance with the statutorily mandated version of the AMA Guides. *See* Article 8308-4.24. The 1989 Act does not require a particular degree of specialty on the part of a designated doctor; rather, such matter is more appropriately a matter of weighing and considering the totality of medical evidence in a given case. This is not to suggest, however, that under a particular set of circumstances it might not be appropriate to consider the appointment of a designated doctor with a particular specialty. In this particular case, we note that the claimant's doctor and the carrier's doctor were orthopedic specialists yet had varying expert opinions on the impairment rating. The designated doctor, having access to the previous medical reports for his evaluation together with his own examination, is in an optimum position to objectively consider and render an overall evaluation. We note that it is not unusual for a doctor to request and rely on reports from specific specialties in rendering a diagnosis or in determining treatment.

Our review of the record in this case does not indicate the hearing officer improperly considered the amended report of the designated doctor or failed to consider all the medical evidence in determining that the great weight of the other medical evidence did not outweigh the designated doctor's evaluation. The hearing officer is the sole judge of the weight and credibility to be given the evidence that he or she considers relevant and material. Article 8308-6.34(e). Where there is sufficient evidence to support the hearing officer's determinations, as here, there is no sound basis to disturb them. Texas Workers' Compensation Commission Appeal No. 92232, decided July 20, 1992. We have previously observed that the designated doctor is a key part of the 1989 Act in resolving medical disputes and bringing to finality issues of MMI and impairment rating. Texas Workers' Compensation Commission Appeal No. 93007, decided February 18, 1992; Texas Workers' Compensation Commission Appeal No. 92595, decided December 21, 1992; Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. It is essential that the Commission have a designated doctor program that is credible, fair and widely accepted as retaining only well qualified persons in good standing with their profession who are totally impartial and who have some understanding of the

program. We do not find that a practitioner of general medicine is outside these parameters though other medical opinion in a case is rendered by one or more doctors practicing in a specialty.

The decision is affirmed.

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Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

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Joe Sebesta
Appeals Judge

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Lynda H. Nesenholtz
Appeals Judge